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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,851	09/05/2006	Michel Rousseau	744.1009	4849
23280 7590 12/30/2009 Davidson, Davidson & Kappel, LLC 485 7th Avenue 14th Floor New York, NY 10018				
EXAMINER BEAULIEU, YONEL				
ART UNIT 3661		PAPER NUMBER		
MAIL DATE 12/30/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,851

Applicant(s)

ROUSSEAU, MICHEL

Examiner

/Yonel Beaulieu/

Art Unit

3661

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments, filed 9/8/09, with respect to the rejection(s) of claim(s) 11 – 20 and 27 - 30 under §§102/103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the *means plus function* language in claim 27.

Claim Rejections - 35 USC § 112

Claims 27 – 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 uses the phrase "**means for**" (lines 8 and 11, respectively), but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph, because although a means for performing a specified function is an acceptable definition of an element or subcombination of a combination and such a means shall be construed to cover corresponding structure and equivalents thereof, function must be specified and thus would be capable of a determination of structural equivalent thereof; structureless terms without a function specified therefor affords no basis for judging whether a structure different from that disclosed by Applicant would be equivalent thereof.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly not modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does not wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for").

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Claims 28 – 30 are necessarily rejected as to their dependency upon claim 27.

Allowable Subject Matter

Claims 11 – 20 are allowed and a statement supporting the allowable subject matter, as argued, will be provided in response to this Office Action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Yonel Beaulieu/ whose telephone number is (571) 272-6955. The examiner can normally be reached on Mon., Wed. & Thur. between 0900 and 1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yonel Beaulieu/
Yonel Beaulieu
Primary Examiner
Art Unit 3661